

By Senator Wise

5-1254-05

See HB

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled

An act relating to public records and public meetings exemptions for investigations by the Commission for Independent Education; amending s. 1005.38, F.S.; creating an exemption from public records requirements for a complaint, information obtained during an investigation, and minutes and findings of a probable cause panel relating to suspected violations of ch. 1005, F.S., or commission rules; creating an exemption from public meetings requirements for proceedings of a probable cause panel; providing for limited duration of the exemptions; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b), (c), (d), (e), and (f) of subsection (6) of section 1005.38, Florida Statutes, as amended by SB _____, 2005 Regular Session, are redesignated as paragraphs (c), (d), (e), (f), and (g), respectively, and a new paragraph (b) is added to that subsection to read:

1005.38 Actions against a licensee and other penalties.--

(6) The commission may conduct disciplinary proceedings through an investigation of any suspected violation of this chapter or any rule of the commission,

1 including a finding of probable cause and making reports to
2 any law enforcement agency or regulatory agency.

3 (b)1. A complaint, all information obtained by the
4 commission during the resultant investigation, and the minutes
5 and findings of a probable cause panel shall be confidential
6 and exempt from the provisions of s. 24(a), Art. I of the
7 State Constitution and s. 119.07(1) for a maximum of 10 days
8 after the panel declares findings of probable cause. All
9 proceedings of a probable cause panel are exempt from the
10 provisions of s. 24(b), Art. I of the State Constitution and
11 s. 286.011 for a maximum of 10 days after the probable cause
12 panel declares the findings.

13 2. This paragraph is subject to the Open Government
14 Sunset Review Act of 1995 in accordance with s. 119.15 and
15 shall stand repealed on October 2, 2010, unless reviewed and
16 saved from repeal through reenactment by the Legislature.

17 Section 2. The Legislature finds that it is a public
18 necessity that a complaint, information obtained during the
19 resultant investigation, and the minutes and findings of a
20 probable cause panel relating to suspected violations of
21 chapter 1005, Florida Statutes, or rules of the Commission for
22 Independent Education be held confidential and exempt from
23 public disclosure for a maximum of 10 days after a panel
24 declares findings of probable cause. In addition, the
25 Legislature finds that it is a public necessity that the
26 proceedings of a probable cause panel relating to such
27 violations be exempt from public meetings requirements for a
28 maximum of 10 days after the panel declares findings of
29 probable cause. The Legislature finds that lack of
30 confidentiality during an institutional investigation and the
31 probable cause process impedes the investigation. The

1 Legislature finds that false accusations against an
2 institution, or the dissemination of inaccurate information,
3 may result in harm to past graduates and current students by
4 improperly tainting the reputation of an institution and the
5 credentials of its students. By ensuring confidentiality
6 during the investigatory and probable cause processes, the
7 state helps to maintain and enforce the federal Family
8 Educational Rights and Privacy Act by ensuring that student
9 records are kept confidential.

10 Section 3. This act shall take effect on the same date
11 that SB ____ or similar legislation takes effect, if such
12 legislation is adopted in the same legislative session or an
13 extension thereof and becomes law.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31